

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MIGUEL DEJESUS,

**20-CV-2030**

Plaintiff,

-against-

**NOTICE OF REMOVAL**

2078 ARTHUR LLC, and JOSEPH ISAAC, as a  
Manager of 2078 Arthur LLC,

Defendants.  
-----X

TO: CLERK  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

CLERK  
Supreme Court of the State of New York  
County of Bronx  
851 Grand Concourse  
Bronx, NY 10451

Fausto E. Zapata, Jr.  
Law Offices of Fausto E. Zapata, Jr.  
277 Broadway, Suite 206  
New York, NY 10007  
*Attorneys for Plaintiff*

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1441 *et seq.* Defendant Joseph Isaac, by and through his attorneys, Goldberger and Weinberger, LLP, hereby remove the New York State Supreme Court action described below to the United States District Court for the Southern District of New York on the following grounds:

1. The plaintiff named in the caption above has commenced an action in the Supreme Court of the State of New York, County of Bronx, entitled *Miguel DeJesus v. 2078 Arthur LLC, and Joseph Isaac, as a Manager of 2078 Arthur LLC*, index number

34018/2019E (“State Court Action”). A copy of the summons and complaint in the State Court Action is annexed hereto as **Exhibit A**, which constitutes all the process, pleadings and orders Defendants have received with respect to the State Court Action. Plaintiff effectuated service of the summons and complaint of Defendant 2078 Arthur LLC in the State Court Action on or about December 12, 2020 by serving the New York State Secretary of State. Defendant Joseph Isaac was served on January 16, 2020. Neither Defendant has filed an answer, motion against the complaint, or otherwise responded to same in the State Court Action. This Notice of Removal is being filed within 30 days of the service of the Summons and Complaint on Defendant Joseph Isaac. Defendant 2078 Arthur LLC consents to the removal of the Action, and joins in this removal petition.

2. Removal of the State Court Action to this Court is warranted by 28 U.S.C. § 1441(a) because this suit is one over which this Court has original jurisdiction under 28 U.S.C. § 1331 as it is based, *inter alia*, on a claim or right which is being asserted under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 *et seq.* Additionally, pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff’s state law claims under the New York Labor Law. 28 U.S.C. § 1367(a) provides, in relevant part, that “in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to the claims in the action within such original jurisdiction that they form a part of the same case or controversy.” Plaintiff’s state and federal claims all related to Defendants’ alleged underpayment of overtime

wages to Plaintiff while Plaintiff was allegedly an employee of Defendants; therefore, Defendant Isaac requests that the Court assert supplemental jurisdiction over Plaintiff's state law claims.

3. Venue lies in the United States District Court for the Southern District of New York because the State Court Action was filed in this district. 28 U.S.C. § 1441(a).

4. As required by 28 U.S.C. § 1446(d), Defendant Isaac is serving a copy of this Notice of Removal on Plaintiff and providing a copy to the Clerk of the Supreme Court of the State of New York, Bronx County.

**WHEREFORE**, Defendants submit this Notice of Removal of this action from the Supreme Court of the State of New York, Bronx County, to the United States District Court for the Southern District of New York and pray this action stand so removed.

Dated: New York, NY  
March 6, 2020

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Stuart Weinberger, Esq.

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*Attorneys for Defendants*